

REMARKS

Reconsideration of the application in light of the amendments and the following remarks is respectfully requested.

Status of the Claims

Claims 1-33 were previously cancelled without prejudice or disclaimer of the subject matter contained therein.

Claim 51 has been cancelled without prejudice or disclaimer of the subject matter contained therein.

Claims 34-41, 46-48, and 55-62 have been amended. Support for the amendments can be found in the Specification on page 4, lines 11-17.

Claims 34-50 and 52-62 are pending. No new matter has been added.

Rejection under 35 U.S.C. §102

Claims 34-37, 39-43, 45, 47-51, and 54-62 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,367,708 to Fujimoto. The Examiner contends that Fujimoto discloses a garment comprising a first and second stretchable portion wherein the first section has a greater straining force than the second. Applicants respectfully traverse the rejection.

Independent claim 34 recites:

wherein said . . . first stretchable portion substantially covers the ligamentum collateralis on a medial side of a knee joint of a wearer and extends obliquely from a superior side of said knee joint through . . . the anterior surface of the corresponding thigh of said wearer and along the portion of the corresponding musculus sartorius of said wearer.

The first stretchable portion 121 has a relatively great straining force which covers a portion of the ligamentum collaterale 3 on a medial side and extends along the musculus sartorius 6, so as to support the patella 1. *See*, Figures 86-87. The first stretchable portion 121 supports the patella 1 as if it were pulling up from the inferior side, thereby improving the stability of the knee joint. *See*, Specification, page 56, line 35 through page 57, line 3. The musculus sartorius 711, as shown in Figure 123, is a substantially straight muscle that is present obliquely in the anterior side (*i.e.*, front) of the thigh and through the superior part of the anterior side of the thigh, and reaches the lateral side of the pelvis. Accordingly, the claimed invention provides a first stretchable portion which runs obliquely across front of the wearer's thigh, along the musculus sartorius.

In contrast, Fujimoto does not disclose a first stretchable portion which extends across the thigh along the musculus sartorius, as recited in independent claim 34. Fujimoto's stretchable portion 1 covers "all of the front side of the lower half of the human body except for the front sides of the thighs" (Fujimoto, col. 3, lines 61-66, emphasis added, and see, Figure 5). Therefore, Fujimoto does not disclose a first stretchable portion which runs obliquely across the front of the wearer's thigh and substantially covers the musculus sartorius.

Accordingly, Applicants submit that Fujimoto does not disclose or suggest each and every feature recited in independent claim 34. Therefore, Fujimoto does not anticipate the invention recited in claim 34.

Independent claims 47, 55, 58, 61 and 62 recite at least the same element regarding the first stretchable portion of independent claim 34, as discussed above, in addition to other features. Accordingly, Applicants submit that independent claims 47, 55, 58, 61, and 62 are patentable for at least the same reasons discussed above with respect to independent claim 34.

Claims 35-37, 39-43, and 45 depend from independent claim 34. Claims 48-51 and 54 depend from independent claim 47. Claims 56-57 depend from independent claim 55. Claims 59-60 depend from independent claim 58. Applicants submit that claims 35-37, 39-43, 45, 48-51, 54, 56-57, and 59-60 are patentable for at least the same reasons as discussed above with respect to their respective base claim. Applicants respectfully request reconsideration and withdrawal of the rejection.

The Examiner also states in the Office Action:

In regards to the . . . portions substantially covering specific portions of the body and lengths capable of covering specific regions . . . the applicants apparatus claim limitations must be patentably distinct absent the functional parameters or physical characteristic of a human body, considering the differences and size and make-up of various human beings.

Applicants respectfully direct the Examiner's attention to U.S. Patent No. 4,698,847, attached hereto in Appendix A, U.S. Patent No. 6,186,970, attached hereto in Appendix B, and U.S. Patent No. 6,874,337, attached hereto in Appendix C. The '847, '970, and '337 patents all refer to specific muscle groups of the human body in order to reference the location and position of the claimed garment.

Further, although human beings come in different sizes, the location of certain muscle groups on a human body, regardless of size, is generally constant. Applicants note that the claims cover garments of any and every size to effect proper placement of the stretchable portion over the claimed muscle groups, regardless of the size and make-up of the human being.

Rejection under 35 §103

Claims 38, 44, 46, 52, and 53 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fujimoto in view of U.S. Patent No. 5,829,058 to Dicker et al. ("Dicker")¹. The Examiner contends that Dicker discloses a device having a base elastic fabric and resistance bands of different elasticity. Applicants respectfully traverse the rejection.

Independent claims 34 and 47 recite:

wherein said . . . first stretchable portion substantially covers the ligamentum collateralis on a medial side of a knee joint of a wearer and extends obliquely from a superior side of said knee joint through . . . the anterior surface of the corresponding thigh of said wearer and along the portion of the corresponding musculus sartorius of said wearer.

As discussed above, this element is not disclosed in Fujimoto.

Additionally, Dicker does not teach or suggest this element. Dicker discloses a large lateral band 36 and a large lateral anterior band 46 which run along the wearer's leg. *See*, Dicker, col. 3, lines 60-61; col. 4, lines 12-13; and Figures 1 and 2. Dicker also discloses a medial leg resistance band 38. *See*, Dicker, col. 3, lines 63-66 and Figure 1. However, Dicker's bands 36, 46, and 38 do not cover the ligamentum collaterale on a medial side of the knee joint and do not extend obliquely from a superior side of the knee joint through the anterior surface of the corresponding thigh and along the portion of the corresponding musculus sartorius, as recited in the independent claims 34 and 47. Furthermore, Dicker's obliquely extending band, illustrated on the left leg of the wearer, starting from the upper edge of skates 16, extends from the lateral side to the medial side. Thus,

¹ Applicants note the rejection made in the Office Action dated October 6, 2005 states that claims 38, 44, 46, 52, and 53 are rejected under 35 U.S.C. §102(a). However, claims 38, 44, and 46 depend from independent claim 34. Claims 52 and 53 depend from independent claim 47. Claims 34 and 47 were not rejected under §102 or §103 in view of Dicker, and Applicants presume the rejection is proper under §103(a), not §102(b). Applicants will traverse the rejection under §103(a).

Dicker's obliquely extending band extends in the opposite direction to the first stretchable portion of the claimed invention. Accordingly, Applicants submit that none of Dicker's bands 36, 46, 38, and the obliquely extending band disclose or suggest the first stretchable portion of the claimed invention.

Applicants submit that neither Fujimoto nor Dicker, alone or in combination, disclose each and every feature recited in independent claims 34 and 47. Neither Fujimoto nor Dicker disclose each and every feature recited in dependent claims 38, 44, 46, 52, and 53. Applicants submit that claims 38, 44, 46, 52, and 53 are patentable for at least the same reasons as discussed above with respect to their respective base claim. Applicants respectfully request reconsideration and withdrawal of the rejection.

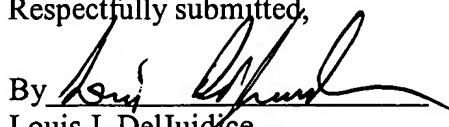
CONCLUSION

Each and every point raised in the Office Action dated October 6, 2005 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 34-50 and 52-62 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By 
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